(7915 Westmoreland Avenue)

* DEPUTY ZONING COMMISSIONER * OF BALTIMORE COUNTY 9th Election District 6th Councilmanic District * Case No. 89-58-SPH

Cecil O. Ramsey, et ux petitioners * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property for Portable Toilets Storage and Repair and Truck Parking on a paved surface in a residential zone, as more particularly described in Petitioner's Exhibit 1.

and is improved with two separate single family dwellings. Mrs. Ramsey testified she and her husband purchased the subject property in 1946. Initially, Petitioners resided in the dwelling on the front of the property, known as 7915 Westmoreland Avenue. Around 1958, Petitioners constructed a new home in the rear of the property, known as 7915-A Westmoreland Avenue. At that time, Petitioner's husband was in the septic cleaning business and parked his trucks on the subject property. Testimony indicated that within the past few years their son has used the property to the rear of 7915-A to store portable toilets that he rents. Richard Ramsey testified that while he owns approximately 260 portable toilets, there

The Petitioners, by Clara Ramsey, appeared and testified. Also appearing on behalf of the Petition was Richard Ramsey, Petitioners' son. There were no Protestants. Testimony indicated that the subject property is zoned D.R. 5.5

have never been more than 12 to 15 stored at the site at any one time.

Phone: 687-6922

FRANK S. LEE Registered Land Surveyor

1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

April 28, 1988

No. 7915A Westmoreland Avenue 9th District Baltimore County, Maryland

Beginning for the same on the east side of Westmoreland Avenue at the distance of 180 feet more or less measured southerly along the east side thereof from the south side of Perring Woods Drive, thence running and binding on the east side thereof South 9 degrees 44 minutes West 15 feet, thence leaving Westmoreland Avenue for five lines of division as follows: South 80 degrees 16 minutes East 175 feet, South 9 degrees 44 minutes West 235 feet, South 80 degrees 16 minutes East 400 feet, North 9 degrees 44 minutes East 250 feet and North 80 degrees 16 minutes West 575 feet to the place of beginning.

Containing 2.35 acres of land more or less.

Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See Kahl v. Cons. Gas Elec. Light. and Pwr. Co., 191 Md. 249, 254, 60 A.2d 754 (1948); Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 589 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve -----Non-Conforming use for Portable Toilets Storage & Repair and Truck Parking on a paved surface in a residence zone

Property is to be posted and advertised as prescribed by Zoning Regulations.

	•	agree to pay ex	penses of the above	ve Special Hearing advertising, posting to be bound by the zoning regulation the Zoning Law for Baltimore Court	ng, etc., upon filations and restric-
FINANCE - REVENUE DIVISION NEOUS CASH RECEIPT	ACCOUNT S LILL STORY	2 green Hoarny Chy roe	TION OR SIGNATURE OF CASHIER		eclare and affirm, NESC perjury, that I/we of the preperty
CE - REVENUES CASH RI	9-20	Share.	VALIDA	7915A Westmoreland Ave	661-7450 Phone No.
BALTIMORE COON OFFICE OF FINANCE MISCELLANEOUS (4-2	ROM: CELVED	ma .	City and State Name, address and phone number tract purchaser or representative.	er of legal owner, con-
BAL	DAT	A P	Par parter	Rick Ramsey	

7915 Westmoreland Ave. 668-0659 Attorney's Telephone No.: that the subject matter of this petition be advertised, as

required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore Sounty, on the ______ day of ______ day of _______ 19.8%, at ______ o'clock

Zoning Commissioner of Baltimore County.

Baltimore County adopted a new set of comprehensive zoning requlations on March 30, 1955. The issue of nonconforming uses are dealt with

in Section 104 of those regulations. The Section then read:

"104.1 - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel or land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon eny change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an

exception upon the general nonconforming rule for Special Exception office buildings. The second reads as follows:

"Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that

becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception. (Bill No. 167, 1989)"

As with all non-conforming use cases, the first task is to determine if a non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations, or was the use requested permitted under the regulations in effect at the time the use commenced.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-con-See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

> "(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson. Maryland 21204 XXXXXX 887-3353 J. Robert Haines

November 15, 1988

Mrs. Cecil O. Ramsey 7915-A Westmoreland Avenue Baltimore, Maryland 21234

RE: PETITION FOR SPECIAL HEARING E/S Westmoreland Avenue, 180' +/- S of Perring Woods Drive (7915 Westmoreland Avenue) 9th Election District - 6th Councilmanic District Cecil O. Ramsey, et ux - Petitioners Case No. 89-58-SPH

Dear Mrs. Ramsey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

> Very truly yours, I M Nistanowie ANN M. NASTAROWICZ

> > for Baltimore County

Deputy Zoning Commissioner

Dennis F. Rasmussen

AMN:bjs

cc: Mr. Richard Ramsey 7915 Westmoreland Avenue Baltimore, Maryland 21234 People's Counsel

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

Petitioners seek relief from Section 104.1 pursuant to Section 500 of the B.C.Z.R. and request a determination that a nonconforming use of the subject property for portable toilets storage and repair and truck parking on a paved surface in a residential zone properly exists.

Petitioners have failed to meet their burden to show that the requested use of the property is a valid nonconforming use. Petitioner presented no evidence indicating the validity of the requested uses under the zoning regulations when such use commenced. There was no evidence that the storage of portable toilets on the property and the repair and/or truck parking were in existence prior to 1945 and/or that the uses were permitted uses at the time such use commenced. Petitioners were advised of the burden upon them as set forth herein and given the opportunity to request a continuance to seek legal assistance. After an explanation of the process, Petitioners declined this opportunity.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the Petition for Special Hearing should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 150 day of November, 1988 that the Petition for Special Hearing to approve the nonconforming use of the subject property for Portable Toilets Storage and Repair and Truck Parking on a paved surface in a residential zone, as more particularly described in Petitioner's Exhibit 1, be and is hereby DENIED.

A M Nos human ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 89-58-5PH Date of Posting 928/88 Posted for: Special Hearing Petitioner: Lecil D. Kamssy at ux Location of property: Els Westmoreland 1/40, 150'+5, Perming
Would Dr. - 1915 Westmonland Ara Location of Signer Focing Dries way los ding to property and or subjet Anderty- @ Loc sign at internation y Only way & Wortman land Dr Posted by Millely Notice in the grant face in th

PUBLICATION OF CERTIFICATE

"DUPLICATE" CERTIFICATE OF PUBLICATION SALES & LEGAL NOTICES NOTICE OF HEARING The Zoning Commissioner of Salamore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each Petition for Special Herring
Case number: 89-57-6PH
ES Vivestmoreter d Avenue,
150° ± S Pering
Woods Drive
(781° Westmoretend Aveing on (MOUST 18 19 56) 9th Election District 6th Councilments Petitioner(s): Cecil O. Farrasy, et us Hearing Date: Tuesday Sept. 13, 1988 at 9:00 a.mu THE JEFFERSONIAN, Special Hearing: Non-con-forming use for portable tollers storage and repair and truck parling on a paved surface in a

appeal period. The Zoning Com-missioner will however, entertain any request for a stay of the is-

J. POBERT HAINES

Baltimore County Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204 J. Robert Haines
Zoning Commissioner Mr. & Mrs. Cecil C. Remney 7915A Westmoreland Avenue Baltimore, Maryland 21234 Petition for Special Hearing - Case #s 89-58-SPH ES Westmoreland Avenue, 1501± 5 Perring Woods Drive (7915 Westmoreland Avenue) 9th Election District - 6th Councilmonic Petitioner(s): Cacil O. Ramony, et ux HEARING SCHEDULED: SEPTEMBER 13, 1988 at 9:00 a.m. Do <u>not</u> remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself. THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED. Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office No. 058918 BALTIMORE COUNTY, MARYLAND d post set(s), there OFFICE OF FINANCE - REVENUE DIVISION r each set not MISCELLANEOUS CASH RECEIPT K-01-615-000 9/13/88/caring B B G16 **** 11366: a 31267-58-58H

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

NOTICE OF HEARING

Dennis F. Rasmussen

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing , Case Number: 89-58- 5PH ES Westmoreland Avanua, 150's 5 Perring Moode Drive (7915 Mestacreland Average) 9th Election District - Eth Courcilmenia Petitioner(s): Cecil O. Romery, et ux HEARING SCHEDLLED: SEPTEMBER 13, 1988 at 9:00 some

VALIDATION OR SIGNATURE OF CASHIER

Special Hearings Non-conforming use for portable toilets storage and repair and truck parking on a paved surface in a residence zone.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, within the thirty (30) day appeal period. The Zoning Commissioner will, however entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County cct Cacil D. Rampay, et ux Louis Roserberger

File

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this ________, 1988

Petitioner's Attorney

Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

Paul H. Reincke Chief

J. Robert Haines Zoning Cammissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204



Re: Property Owner: Cecil O. Ramsey, et ux

Location: ES Westmoreland Ave., 150' (+ or -) of Perring Woods Dr. (#7915-A Westmoreland Ave.) Zoning Agenda: Meeting of June 28,1988 Item No.: #391

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEFDS the maximum allowed by the Fire Department.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Pro-tection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: AT 1.8 88 Approved:

Planning Group

Special Inspection Division

Noted and
Approved:

Fire Prevention Bureau

Raltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Townson, Maryland 21214

July 18, 1988

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204



Doar Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number

(391) 413, 438, 439, 442, 443, 444, 446, 447, 448, 450, 451, 452, 453, 454, 455, 456, and 457.

Very truly yours, Stephen E. Weber, P.E. Assistant Traffic Engineer

SEW/RF/cps

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

August 31, 1988

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21204

MEMBERS Department of State Roads Commission Bureau of

Health Department Project Planning Building Department Board of Education Zoning Administration Industrial

Mr. & Mrs. Cecil O. Ramsey 7915A Westmoreland Avenue Baltimore, MD 21234

> RE: Item No. 391 Case No. 89-58-SPH Petitioner: Cecil O. Ramsey, et ux Petition for Special Hearing

Dear Mr. & Mrs. Ramsey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested

Enclosed are all comments submitted form the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Janes E. Dyer/dt Zoning Plans Advisory Committee

JED:scj

cc: Frank S. Lee 1277 Neighbors Avenue Baltimore, MD 21237

Enclosures

BALTIMORE COUNTY, MARY AND

INTER-OFFICE CORRESPONDENCE

Date_____July_26__1988_____

P. David Fields. Director
Office of Planning and Zoning

SUBJECT_Zoning Petitions 89-58-SpH, 89-62-SpH, 89-67-SpH

In view of the subject of these petitions, this office offers no comment.

P. David Fields, Diffector
Office of Planning and Zoning

PDF/jat cc: Shirley Hess, People's Counsel . G. Hoswell Zoning File

DECESVED

JUL 28 1988

ZONING OFFICE

CPS-008

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

James Dyer Zoning Supervisor

James Thompson FROM Zoning Enforcement Coordinator

Item No.: (39/ (if known)

SUBJECT Petitioner: Research Language (if known)

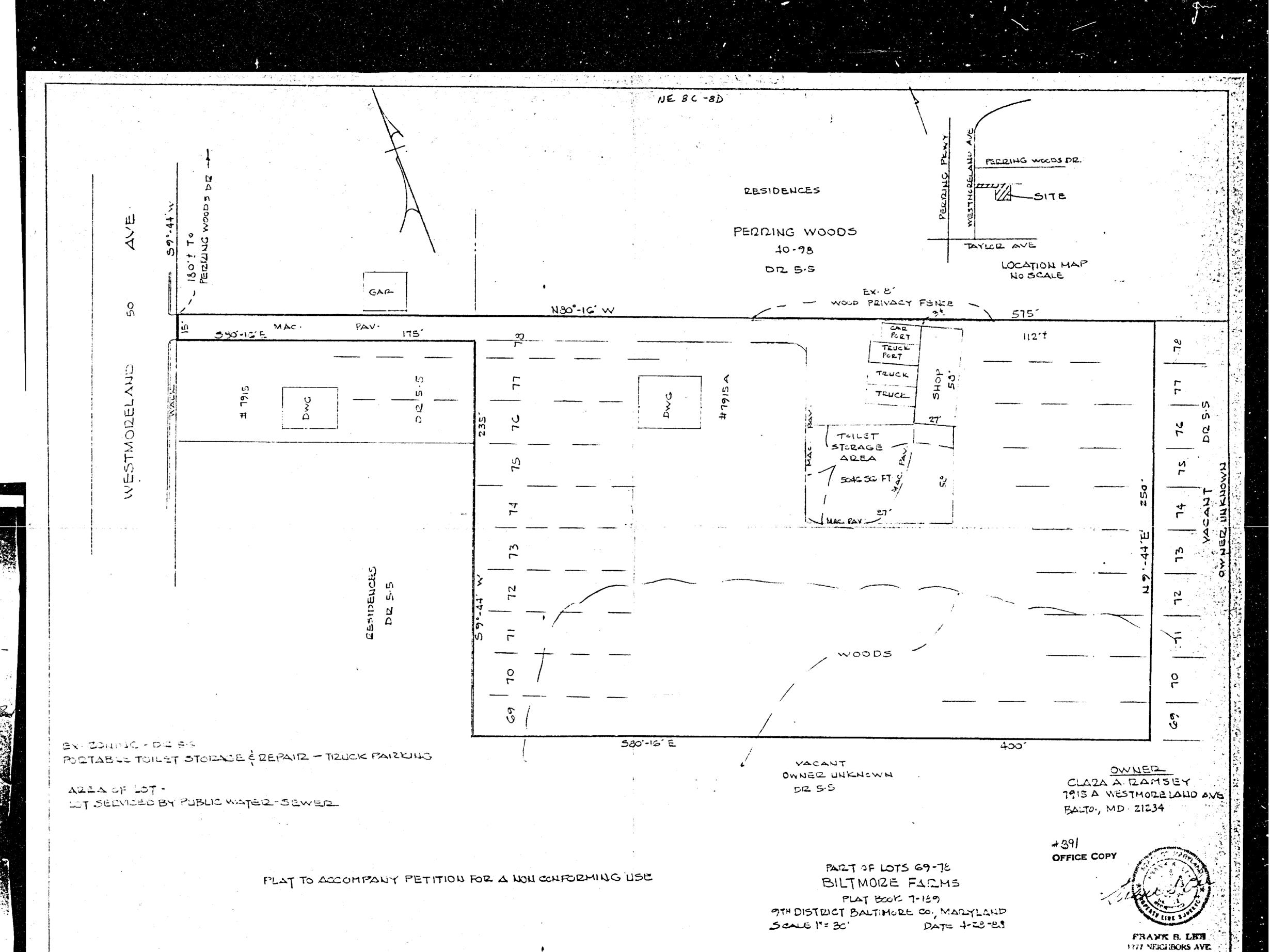
VIOLATION CASE # C 88-760

LOCATION OF VIOLATION 7915 Westmadand Que. DEFENDANT Fichard Ramised ADDRESS 7715-AWatmoler Man

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

8013 High Point Fel 01234

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.



5-41 TURK ME, MD. 21237-